IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3342 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AHMEDABAD JILLA PANCHAYAT - Petitioner(s)

Versus

SHAKRIBEN B THAKOR & 1 - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner(s) : 1 - 2.
MR DJ BHATT for Respondent(s) : 1,
DELETED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 17/10/2005

CAV JUDGMENT

1.By filing this petition, the petitioners have challenged the judgment and award dated 4.1.1989 passed

by the Presiding Officer, Special Labour Court, Ahmedabad in Reference (LC/IDA) No.607 of 1984 by which the petitioners are directed to reinstate the respondent in service to her original post with full back wages for the intervening period.

2. Being aggrieved and dissatisfied by the said judgment and award dated 4.1.1989 passed by the Presiding Officer, Special Labour Court, Ahmedabad in Reference (LC/IDA) No.607 of 1984, the petitioners have preferred the present petition under Articles 226/227 of the Constitution of India.

3. Heard Mr.Munshaw, learned advocate for the petitioners and Mr.D.J.Bhatt, learned advocate for the respondent. I have also perused the material placed on record of this petition.

4. Having heard the learned advocates for the parties and having perused the material on record, it appears that this Court (Coram: G.T.Nanavati and K.J.Vaidya, JJ) had admitted the matter on 05.05.1989 and had stayed the operation and implementation of the impugned judgment and award.

5. It can be seen from the record that the respondent was working as Water Server in petitioner no. 2 – school and her services were came to be terminated from

02.05.1981. Ultimately, the respondent raised the industrial dispute which was numbered as Reference (LC/IDA) No. 607 of 1984. After hearing the learned advocates for the parties and appreciating the evidence on record, the Presiding Officer, Special Labour Court, Ahmedabad, by judgment and award dated 04.01.1989 directed the petitioners to reinstate the respondent on her original post with full back wages for the intervening period. As stated above, the said judgment and award dated 04.01.1989 had been stayed by this Court as back as on 05.05.1989.

6. The Labour Court has come to the conclusion that there is a breach of the provisions of Section 25-F of the Industrial Disputes Act, 1947 (“the Act” for short). It is required to be noted that since the respondent was entitled to the protection of Section 25-F of the Act, the said protection could not be denied to her on the ground that she was not permanent employee. It is not the case of the petitioners that while terminating the services of the respondent, the provisions of Section 25-F of the Act have been complied with and in that view of the matter, the termination of the services of the respondent cannot be upheld and has to be set aside. It is pertinent to note here that the services

of the respondent were terminated way back in 1981 and till date 24 years have elapsed. Under the circumstances, I am not inclined to direct reinstatement of the respondent but considering the facts and circumstances of the case, the petitioners is directed to pay the consolidated sum of Rs.35,000/- (Rupees thirty five thousand only) to the respondent in lieu of reinstatement. It is clarified that this amount is being paid by way of full and final settlement of all the claims of the respondent. The said amount shall be paid within two months from today.

7. Under the circumstances, the impugned judgment and award dated 04.01.1989 passed by the Presiding Officer, Special Labour Court, Ahmedabad in Reference (LC/IDA) No. 607 of 1984 is quashed and set aside. This petition is allowed, subject to the aforesaid directions. Rule is made absolute.

(Sharad D.Dave,J)

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